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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,853	11/07/2001	Daniel Gaur	PW 0249735 P12827	2382

7590 10/13/2004

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EXAMINER
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DU, THUAN N

ART UNIT	PAPER NUMBER
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2116

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/045,853

Applicant(s)

GAUR, DANIEL

Examiner

Thuan N. Du

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 1-17 are presented for examination.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-5, 10-12 and 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Sakai (U.S. Patent No. 6,665,810).
4. Regarding claim 1, Sakai teaches a system substantially as claimed comprising:  
a network adapter (interface controller 1) to provide communication between a computing system and a network [col. 3, lines 38-42], said network adapter operable at more than one link speed (100 mbps and 400 mbps) [Figs. 5-7];

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a network device driver (circuit 12) to control functionality of said network adapter [col. 3, lines 54 et seq.]; and

a power source to provide power to said computing system [Fig. 5; col. 3, lines 56-58], wherein said network device driver causes said network adapter to switch said link speed to maximize longevity of said power source [col. 4, lines 15-29; col. 5, lines 23-56; col. 4, lines 49-54; col. 7, lines 63-65].

5. Regarding claim 2, Sakai teaches that the network device driver causes said network adapter to switch from a higher link speed (400 mbps) to a lower link speed (100 mbps) when said power source changes from an AC power supply to a power source of finite power capacity [col. 4, lines 15-29; col. 5, lines 23-56; col. 4, lines 49-54; col. 7, lines 63-65].

6. Regarding claim 3, Sakai teaches that the source of finite power capacity is a battery [Fig. 5; col. 3, line 58].

7. Regarding claim 4, Sakai teaches that the network device driver causes said network adapter to switch from a lower link speed (100 mbps) to a higher link speed (400 mbps) when said power source changes from a power source of finite power capacity to an AC power source [col. 4, lines 15-29; col. 4, lines 57-62; col. 6, lines 51-60].

8. Regarding claim 5, Sakai teaches that the source of finite power capacity is a battery [Fig. 5; col. 3, line 58].

9. Regarding claims 10-12, since they recite method of operating of the apparatus defined in the apparatus claims, they are rejected accordingly based on the rejection of the apparatus claims.

10. Regarding claims 14-16, Sakai teaches the claimed method steps. Therefore, Sakai teaches the program code having instructions for carrying out claimed method steps.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 6-9, 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakai (U.S. Patent No. 6,665,810).

13. Regarding claim 6, Sakai teaches that the network device driver causes said network adapter to switch said link speed from a high speed to a low speed upon said change of said power source from said AC power source to said source of finite power capacity [col. 4, lines 15-29; col. 5, lines 23-56; col. 4, lines 49-54; col. 7, lines 63-65], and the network device driver causes said network adapter to switch said link speed from said low speed to said high speed upon said change of said power source from said source of finite power capacity to said AC power source [col. 4, lines 15-29; col. 4, lines 57-62; col. 6, lines 51-60].

Sakai does not explicitly teach that the power supplied to the device is changed back and forth from between the AC power source and the source of finite power capacity. However, one of ordinary skill in the art would have recognized that switching power supplies back and forth can be done by a user and it would have been obvious for a user to do so to prolong the battery. Sakai teaches that the type of power supply which supplying power to the device can be determined [col.4, lines 15-17]. Therefor, Sakai's system capable of detecting the change of

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power source from an AC power source to a battery power source and then back to AC power source and adjusting the communication rate accordantly.

14. Regarding claim 7, Sakai teaches that the source of finite power capacity is a battery [Fig. 5; col. 3, line 58].

15. Regarding claims 8, 9, 13 and 17, Sakai does not explicitly teach that the network adapter is adapted to operate at link speeds of 10 mbps, 100 mbps and 1000 mbps. However, Sakai suggests that the network adapter (interface controller 1) may be applied to other devices, connecting other different types of devices (having different communication rate) [col. 7, lines 6-18, 45-47]. Furthermore, Sakai teaches that the link speed is adjusted automatically [col. 7, lines 21-23]. Therefore, one of ordinary skill in the art would have readily recognized that the network adapter taught by Sakai is capable to operate any link speed, including 10 mbps, 100 mbps and 1000 mbps.

### *Conclusion*

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan N. Du whose telephone number is (703) 308-6292 (after 10/14/04, (571) 272-3673). The examiner can normally be reached on Monday-Friday: 9:00 AM - 5:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (703) 308-1159 (after 10/14/04, (571) 272-3670).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

The fax number for the organization is (703) 872-9306.

A handwritten signature in black ink, appearing to read 'Thuan N. Du', with a long horizontal flourish extending to the right.

Thuan N. Du  
October 6, 2004